The California Managed Risk Medical Insurance Board
1000 G Street, Suite 450
Sacramento, CA 95814
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November 9, 2007 R-1-07

ADVANCE NOTICE OF INTENT TO FILE EMERGENCY REGULATIONS

This notice is sent in accordance with Government Code Section 11346.1(a) (2), which requires that State of California agencies give a five working day advance notice of intent to file emergency regulations with the Office of Administrative Law (OAL). The Managed Risk Medical Insurance Board ("Board") intends to file an Emergency Rulemaking package with the Office of Administrative Law (OAL). The regulations provide will provide that benefits through the Healthy Families-to-Medi-Cal Bridge Benefits Program for additional individuals will be discontinued. As required by subdivisions (a)(2) and (b)(2) of Government Code Section 11346.1, this notice appends the following: (1) the specific language of the proposed regulation and (2) the Finding of Emergency, including specific facts demonstrating the need for immediate action, the authority and reference citations, the informative digest and policy statement overview, attached reports, and required determinations.

The Board plans to file the Emergency Rulemaking package with OAL at least five working days from the date of this notice. If you would like to make comments on the Finding of Emergency or the proposed regulations (also enclosed), they must be received within five calendar days of the Board's filing at OAL by both the Board and the Office of Administrative Law. Responding to comments at this point in the process is strictly at the Board's discretion.

Comments should be sent simultaneously to:

Managed Risk Medical Insurance Board
Attn: JoAnne French, R-1-07
1000 G Street, Suite 450
Sacramento, CA 95814

And

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Please note that this advance notice and comment period is not intended to replace the public's ability to comment once the emergency regulations are approved. The Board

will hold a pubic hearing and 45-day comment period within the 180 day certification period following the effective date of the emergency regulations.

Please contact JoAnne French at 916-327-7978 or jfrench@mrmib.ca.gov if you have any question concerning this Advance Notice.

Enclosures

FINDING OF EMERGENCY

Pursuant to Section 11346.1 of the Government Code, the Managed Risk Medical Insurance Board (MRMIB) finds that the immediate adoption of the enclosed regulations is necessary to avoid serious harm to the public peace, health, safety, or general welfare.

SPECIFIC FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION

Assembly Bill 203 (Chapter 188, Statutes of 2007), directs that the Healthy Families-to-Medi-Cal Bridge Benefits Program discontinue the Healthy Families to Medi-Cal Bridge benefits that have been provided to children enrolled in the Healthy Families Program (HFP) when it is determined at the Annual Eligibility Review that the child's household income is below HFP eligibility requirements and the child appears eligible for full-scope Medi-Cal. Instead, under Welfare and Institutions Code section 14011.65b, benefits will be provided to such children through presumptive eligibility (PE) under Med-Cal until an eligibility determination is made.

AB 203, section 101, provides that:

> The adoption and readoption of regulations by the Managed Risk Medical Insurance Board pursuant to Section 12693.981 of the Insurance Code, shall be deemed to be an emergency and necessary for the immediate preservation of public peace, health, and safety, or general welfare. The board is hereby exempted from the requirements that it describe specific facts showing the need for immediate action and shall be exempt from review by the Office of Administrative Law.

Thus, the Legislature has determined that an emergency exists and the adoption of the proposed regulations is necessary for the immediate preservation of public peace, health, and safety, or general welfare.

AUTHORITY AND REFERENCE CITATIONS

Authority: Insurance Code section 12693.21

Reference: Insurance Code section 12693.981

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Existing Law: MRMIB operates HFP which provides health insurance for low-income children whose family incomes are at or below 250% of the federal poverty level net of applicable deductions and who are ineligible for full-scope Medi-Cal benefits. (Insurance Code section 12693 et seq.)

AB 430 (Chapter 171, Statutes of 2001) originally established the Healthy Families-to-Medi-Cal Bridge Benefits. The Bridge was approved in 2002 by the Centers for Medicare and Medicaid Services (CMS) as a component of the parental waiver under Title XXI of the Social Security Act (the Medicaid statute). The waiver expired on January 24, 2007. CMS offered to extend the parental waiver through June 30, 2007 but conditioned the extension on a retroactive change of the federal/state cost from 65/35 to 50/50 to 2002 when the Bridge was first implemented. Under Title XIX of the Social Security Act, the state has the authority to provide PE to children who appear to be eligible for full-scope Medi-Cal benefits. Under PE, full-scope Medi-Cal fee-for-service benefits are provided to children pending an eligibility determination. The federal financial participation under the program is 50/50.

AB 203 is the state's response to CMS' condition. Instead of agreeing to the condition, the bill directs MRMIB to eliminate the Healthy- Families-to-Medi-Cal Benefits when the Director of the Department of Health Care Services declares that presumptive eligibility for no-cost Medi-Cal has been implemented. On August 30, 2007, the Director of DHCS released the directive that PE for non-cost Medi-Cal requisite. Implementing AB 203 requires changes to the current HFP regulations to reflect that the subscriber children will be disenrolled at the end of the anniversary month in which they are determined no longer eligible for HFP and Healthy Families-to-Medi-Cal Bridge Benefits will not be provided.

A summary of the effect of the regulations follows.

Section 2699.6611 describes the occurrences under which a subscriber shall be disenrolled from participation in the program and when the disenrollment shall occur.

The regulations would amend Subsection 2699.6611(e), to add: "(a)(1) and". This section provides that a disenrollment shall occur at the end of the subscriber's anniversary month once they are determined to no longer be eligible for the HFP. This amendment is necessary as the reference to (a)(1) will be deleted with Subsection 2699.6611(f).

The proposed regulations would delete Subsection 2699.6611(f). This section is removed as it provided authority to HFP to continue coverage for two additional months if the subscriber was determined to be ineligible for the HFP, but was potentially eligible for no-cost Medi-Cal.

Policy Statement: The objective of the regulations is to conform with the requirements of AB 203 by deleting HFP benefits provided by the Healthy-Families-to-Medi-Cal Bridge Benefits. Instead, the benefits as a result of PE will be provided by Medi-Cal.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY or REPORT

None.

DETERMINATIONS

The Proposed Substantial differentiation from existing comparable Federal Regulation or Statute: No.

Mandates on Local Agencies or School Districts: None.

Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code: None.

Costs to Any Local Agency or School District that Requires Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code: None.

Non-discretionary Costs or Savings Imposed on Local Agencies: None.

Costs or Savings to Any State Agency: None.

Costs or Savings in Federal Funding to the State:
As a result of AB 203, the federal financial participation in providing the subject benefits will be paid through Title XIX instead of Title XXI of the Social Security Act. The proposed regulations will simply conform with the applicable statute.

CALIFORNIA CODE OF REGULATIONS
TITLE 10: INVESTMENT
CHAPTER 5.8 MANAGED RISK MEDICAL INSURANCE BOARD
HEALTHY FAMILIES PROGRAM

ARTICLE 2. ELIGIBILITY, APPLICATION, AND ENROLLMENT

Section 2699.6611 is amended to read:

2699.6611. Disenrollment.

(a) A subscriber shall be disenrolled from participation in the program if any of the following occur:

(1) The subscriber is found by the program to no longer be eligible during the annual eligibility review period.

(2) The subscriber child attains the age of 19. A subscriber child who attains the age of 19 will not be disenrolled from the program if he or she applies to the program pursuant to Section 2699.6600 and is determined to be eligible for the program as a subscriber parent pursuant to Section 2699.6607 before his or her effective date of disenrollment.

(3) A subscriber is determined by the program to not be a citizen, non-citizen national, or a qualified alien eligible to participate in the program or fails to provide documentation required pursuant to Subsection 2699.6600(c)(1)(T) within the required time period.

(4) The applicant fails to pay the required family contribution for the subscriber for two (2) consecutive calendar months.

(5) The applicant so requests in writing on behalf of himself or herself or on behalf of another subscriber for whom he or she applied.

(6) The applicant has intentionally made false declarations in order to establish program eligibility for any person.

(7) The applicant fails to provide the necessary information for the subscriber to be requalified.

(8) Death of a subscriber.

(9) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 is no longer enrolled in no-cost Medi-Cal and has not enrolled in the program.

(10) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 did not enroll in no-cost Medi-Cal, or the program, and the subscriber parent has no other children enrolled in the program or no-cost Medi-Cal.

(11) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 attains the age of 19 and the subscriber parent has no other children enrolled in the program or no cost Medi-Cal.

(12) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 no longer lives with the subscriber parent and another adult with whom the child now lives applies and is found eligible for enrollment as a child-linked adult through the same child.

(13) The child through whom the subscriber parent became eligible as a child-linked adult as defined in Section 2699.6500 is no longer enrolled in the program, and the subscriber parent has no other children enrolled in the program or no-cost Medi-Cal.

(b) Prior to disenrolling a subscriber pursuant to (a)(4), the program shall provide written notification to the applicant no less than thirty (30) days prior to disenrollment. Such notice shall clearly indicate all of the following:

(1) The disenrollment will not occur if payment in full is made as required.

(2) If disenrollment for non-payment occurs, coverage will be terminated at the end of the second consecutive month for which the family contribution was not paid.

(c) When a subscriber is disenrolled pursuant to (a) above, the program shall notify the applicant of the disenrollment. The notice shall be in writing and include the following information:

(1) The reason for the disenrollment.

(2) The effective date of disenrollment.

(3) The final day of coverage provided through the program.

(4) An explanation of the appeals process including the right to request continued enrollment pursuant to Section 2699.6612.

(d) Disenrollment pursuant to (a)(4) shall be effective as of the end of the second consecutive calendar month for which the required monthly contributions were not paid in full.

(e) Disenrollment pursuant to (a)(1) and (a)(7) shall be effective at the end of the month of the subscriber's anniversary date.

~~(f) Disenrollment pursuant to (a)(1) shall be effective two (2) months after the end of the month of the subscriber's anniversary date if the subscriber is no longer eligible for the program because his or her household income is below the program guidelines. Otherwise, disenrollment pursuant to (a)(1) shall be effective at the end of the month of the subscriber's anniversary date.~~

~~(g)~~(f) Disenrollment pursuant to (a)(3) shall be effective at the end of the calendar month in which the conclusion of the two-month period falls pursuant to Subsection 2699.6600(c)(1)(T).

~~(h)~~(g) Disenrollment pursuant to (a)(5) shall be effective at the end of the month in which the applicant's request was received. The applicant will be notified of the amount of family contribution due to the program for coverage through the subscriber's effective date of disenrollment.

~~(i)~~(h) Disenrollment pursuant to (a)(6) shall be effective at the end of the month in which the determination was made.

~~(j)~~(i) Disenrollment pursuant to (a)(2) and (a)(11) shall be effective on

the last day of the month the subscriber child or the child through whom the subscriber parent became eligible as a child-linked adult attains the age of 19.

~~(k)~~(j) Disenrollment pursuant to (a)(8) shall be effective at the end of the month in which death occurred.

~~(l)~~(k) Disenrollment pursuant to (a)(9) shall be effective at the end of the month following the program's notification of the subscriber child's disenrollment from no-cost Medi-Cal.

~~(m)~~(l) Disenrollment pursuant to (a)(10) shall be effective at the end of the month following the second month from the date in which the application was received.

~~(n)~~(m) Disenrollment pursuant to (a)(12) shall be effective at the end of the month following the program's determination that the subscriber child has departed from the subscriber parent's household and is living with another adult who has applied for enrollment and is eligible as a child-linked adult through that same child.

~~(o)~~(n) Disenrollment pursuant to (a)(13) shall be effective at the end of the month following the program's determination that the adult is no longer child linked.

NOTE: Authority cited: Sections 12693.21 and 12693.755, Insurance Code. Reference: Sections 12693.21, 12693.45, 12693.74, 12693.77, 12693.755, 12693.98 and 12693.981, Insurance Code.